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| 09/881,856 | 06/13/2001 | Susan M. Duncan | ADAP-1-1002 | 8532 |

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EXAMINER

REIS, TRAVIS M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2859

DATE MAILED: 07/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/881,856

Applicant(s)

DUNCAN, SUSAN M.

Examiner

Travis M Reis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6 and 8-28 is/are pending in the application.
- 4a) Of the above claim(s) 23 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-22 and 25-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of printing the icon on the base has no support in the originally filed specification.

3. Claim 27 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claim limitation & specification do not disclose how an object (i.e. the icon) can be attached to the base by printing. Accordingly, this claim is withdrawn from further prosecution on the merits.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the icon attached to the base by printing must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the

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Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claims 1, 4, 6, 14, 21, 22, & 28 are objected to because of the following informalities:

In claim 1, line 4; claim 4, line 5; claim 6, line 5; claim 14, line 5; claim 21, line 4; claim 22, line 4; claim 28, line 5: "engageable" should be ---engagable---. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 14, 19-21, & 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mecum (U.S. Patent 5733127) in view of Ashoori (U.S. Patent 5678337).

Mecum discloses a design tool & system (10) for use in association with design plans having hallways, doorways, stairways, rooms and other spaces of a known scale, for functional and space planning in the fields of architecture, interior design, and construction of residential and commercial structures, comprising a icon figure member (31), the member having a base engagable with the design plans (Figure 11); the icon figure member attached to said base, said base equal to or greater than the diameter of the icon figure member (Figure 11), and scaled (lines 106-110) to inherently indicate a turning radius to imitate & indicate the turning radius of a wheelchair support device (Figure 7)

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(col. 5 lines 51-53; col. 9 lines 52-56) since the design plans are set to scale to represent an area, along the hallways, doorways, stairways, rooms and other spaces of the design plan to visually illustrate the feasibility of movement along the noted paths in light of the size and turning radius of the represented person.

Mecum does not disclose the icon figure member is shaped as a human seated in a wheelchair.

Ashoori discloses three-dimensional signage (2) for a horizontal surface (6) wherein the shape of the signage is of a human (4a, 4b, 4e) seated in a wheelchair (4c, 4d) (Figure 1) in a common representational icon. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to shape the icon figure member disclosed by Mecum as a human seated in a wheelchair as taught by Ashoori in order that the icon figure can be more representational of the common symbol of the handicapped.

8. Claims 3-6, 8-13, 15-18, 22, 25, & 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mecum & Ashoori as applied to claims 1, 14, 19-21, & 28 above, and further in view of Stansbury (U.S. Patent 4276695).

With reference to claims 3-6, 8, 9, 12, 13, 15, 16, 22, & 26, Mecum & Ashoori disclose all of the instant claimed invention as stated above in the rejection of claims 1, 14, 19-21, & 28, but do not disclose a wand member extending from the icon figure at any angle relative to the perpendicular, from an opening in the icon figure wherein a first end of the wand member is maintained within the opening by frictional contact.

Stansbury discloses a roller measure device (30) with an opening (101) with a wand/handle member (44) wherein the wand/handle member is held within the opening by frictional contact/ sonic welding (col. 6 lines 48-4) or any other connection means (Figure

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5) in order to push the device around easily. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the opening and wand/handle member disclosed by Stansbury to the icon figure member disclosed by Mecum & Ashoori in order to pick up and place the icon figure member around the plans more easily.

With reference to claims 11 & 18, Mecum & Ashoori do not disclose first and second ridges along the opening and wand/handle member respectively to provide a snap lock combination.

Stansbury discloses a snap lock combination between two ridges (172, 173) on two pieces (52) of the wand/handle member that form a snap lock combination when placed together (Figure 9). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the ridge member disclosed by Stansbury to the opening and end of the wand/handle member disclosed by Mecum & Ashoori in order to have a snap lock combination, thereby obviating the need of an extra assembly step to sonic weld the icon figure member to the handle since a snap lock combination is an alternate form of combination to the sonic welding.

With reference to claims 10 & 17, Mecum, Ashoori, & Stansbury do not disclose a metal plate located in the opening, and a magnet in the end of the wand/handle member, thereby providing a plate-magnet combination. However, the use of the particular type of combination claimed by applicant, i.e., a metal plate-magnet combination, absent any criticality, is considered to be nothing more than a choice of engineering skill, choice or design because 1) neither non-obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained as long as the wand/handle member is maintained in the opening of the icon figure member, as

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already suggested by Mecum, Ashoori, & Stansbury, 2) the metal plate-magnet combination claimed by Applicant and the combination used by Mecum, Ashoori, & Stansbury are well known alternate types of combination which will perform the same function, if one is replaced with the other, of maintaining the wand within the opening of the icon figure member, and 3) the use of the particular type of combination by Applicant is considered to be nothing more than the use of one of numerous and well known alternate types of combinations that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to maintain the wand/handle member within the icon figure member as already suggested by Mecum, Ashoori, & Stansbury.

With reference to claim 25, Mecum, Ashoori, & Stansbury do not disclose at least two wheels supporting the chair of the icon figure member. Official notice is taken with respect to the icon figure member having two wheels since it is very well known in the art for a wheel chair to have at least two wheels. Thus, to shape the icon figure member disclosed by Mecum, Ashoori, & Stansbury with two wheels would have been obvious to a person having ordinary skill in the art at the time the invention was made since a representation of a person seated in a wheelchair (i.e. the icon figure member) would be more accurately representational.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 3-6, 8-22, & 25-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M Reis whose telephone number is (703) 305-4771. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-8160 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Travis M Reis
Examiner
Art Unit 2859



Diego Gutierrez
Supervisory Patent Examiner
Technology Center 2800

tmr
July 10, 2003